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09/980,527	04/29/2002	Erwin Rampp	5873US.04	5971

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EXAMINER

DURAND, PAUL R

ART UNIT PAPER NUMBER

3721

DATE MAILED: 06/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/980,527

Applicant(s)

RAMPP, ERWIN

Examiner

Paul Durand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,10-12,14-22 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 3,9,13,23 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/23/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings corrections were received on 2/23/04. These drawings are accepted.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,2,4-8,10-12,14,16,18-20,24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Springs et al (US 5,079,898) in view of Viaud (US 5,311,729).

In regard to claims 1 and 8, Springs discloses the invention substantially as claimed including baler "B", film "F", pulled from a roll 22, that is formed into a rope, introduced in a gap between the bale and the wall, rotating the bale while engaging the bale with the film and rotating the bale until the bale is completely wrapped (see Figs. 2,5,8, C5, L7-17, C10, L37 - C11, L35 and C13, L35 - C14, L32). What Springs does not disclose is the film being pulled off from a film pull means. However, Viaud teaches that it is old and well known in the art of film feeding and bailing to provide film pull means in the form of rollers 60 and 62 that feed the film from the film holding device 26 to the baler for the purpose of efficiently feeding film (see Fig. 2 and C4, L24-44).

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Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Springs with the film pulling means as taught by Viaud for the purpose of efficiently feeding film.

In regard to claim 2, Springs discloses the invention as claimed including forming the film rope by gathering the film in its width (see Fig. 8 and C10, L37 – C11, L35).

In regard to claim 4, While Springs does not specifically disclose forming a new rope while the bale is being wrapped, the Examiner takes Official Notice that it is old and well known in the art to simultaneously start a new wrapping operation while a previous wrapping operation is being finished for the purpose of increasing manufacturing efficiency.

In regard to claim 5, Springs discloses the invention as claimed including cutting the film in front of the film rope by (see Figs. 8, 9 and C9, L3-25).

In regard to claims 6 and 7, Springs discloses the invention substantially as claimed except for the specific film feeding means. However, Viaud teaches that it is old and well known in the art of film feeding and bailing to provide film feed means comprised of rollers 60 and 62, with roll 60 being driven and functioning on friction pressure, with cutting device 74 and 72 that cuts the film downstream of the drive rollers for the purpose of efficiently feeding and severing a film that is being transported to a baler (see Fig. 2, C4, L24-44 and C5, L4-12). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Springs with the film pulling and cutting means as taught by Viaud for the purpose of efficiently feeding and severing a film.

In regard to claims 10-12, Springs discloses the invention substantially as claimed except for the specific film properties of polyethylene, linear low density polyethylene and contains adhesive properties. It would have been an obvious matter of design choice to choose films comprised of polyethylene, linear low density polyethylene and contains adhesive properties, since applicant has not disclosed that films comprised of polyethylene, linear low density polyethylene and contains adhesive properties solves any stated problem or is for any particular purpose and it appears the invention would do equally well with the plastic stretch film recited in Springs. Furthermore, the examiner takes Official Notice that it is old and well known in the art of wrapping to provide plastic films that are comprised of low molecular weight polyethylenes for the purpose of stretching the film around the object to be wrapped.

In regard to claim 14,24 and 25, Springs discloses the invention substantially as claimed including a film wrapping device, from a roll of film 22, holding device 110, rope forming device for forming film "F", comprised of actuator 150, roping arms 140 and projections 142 and cutting device 99 and control means that allow either film wrapping of rope wrapping (see Fig. 8, C9, L3-25 and C10, L37 - C11, L35). What Springs does not disclose is the film being pulled off from a film pull means. However, Viaud teaches that it is old and well known in the art of film feeding and bailing to provide film pull means in the form of rollers 60 and 62 that feed the film from the film holding device 26 to the baler for the purpose of efficiently feeding film (see Fig. 2 and C4, L24-44). Therefore, it would have been obvious to one having ordinary skill in the art to have

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modified the invention of Springs with the film pulling means as taught by Viaud for the purpose of efficiently feeding film.

In regard to claim 16, Springs discloses the invention substantially as claimed except for the specific film holding means. However, Viaud teaches that it is old and well known in the art of bailing and wrapping to provide a holding and support device comprised of with a plurality of support rolls in the form of spool 30, journal 54 and surface 52, box 26, holding roll of film 30 and adapted to accommodate the entire width of film and an outlet generally arranged at the lower right corner of the holding device, for the purpose of holding and protecting the film from the elements (see Fig. 2 and C3, L31-59). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Springs with the film holding means as taught by Viaud for the purpose of holding and protecting the film from the elements.

In regard to claims 18 and 19, Springs discloses the invention substantially as claimed except for the specific film feeding means. However, Viaud teaches that it is old and well known in the art of film feeding and bailing to provide film feed means comprised of rollers 60 and 62, with roll 60 being driven and functioning on friction pressure, for the purpose of efficiently feeding film that is being transported to a baler (see Fig. 2, C4, L24-44 and C5, L4-12). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Springs with the film pulling means as taught by Viaud for the purpose of efficiently feeding a film.

In regard to claim 20, Springs discloses the invention as claimed including forming the film rope by gathering the film in its width with bilateral engaging roping

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arms 140, for forming film "F", actuator 150, and projections 142 (see Fig. 8 and C10, L37 – C11, L35).

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Springs et al in view of Viaud and in further view of Ingram (US 4,826,551).

Springs discloses the invention substantially as claimed except for the specific film roll tension means. However, Ingram teaches that it is old and well known in the art of film feeding to provide tension arms 34 and roller 33 that maintains tension of the film during wrapping for the purpose increasing wrapping efficiency (see Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Springs with the tension means as taught by Ingram for the purpose increasing wrapping efficiency.

5. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Springs et al in view of Viaud and in further view of Casteel et al (US 4,807,427).

Springs discloses the invention substantially as claimed including film rope forming means comprised of arms 140, springs 143 and projections 142. What Springs does not disclose is the use of rollers to for the rope. However, Casteel teaches that it is old and well known in the art of wrapping to use rollers 33, to form the web of film into a rope for the purpose of reducing friction during wrapping (see Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Springs with the roller rope forming means as taught by Casteel for the purpose of reducing friction during wrapping.

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6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Altwater et al (US 5,784,856) in view of Springs et al and in further view of Viaud.

Altwater discloses the invention substantially as claimed including a bale press comprised of press chamber 3 for compressing material, wrapping station 40 and delivery station 50 (see Fig. 1). What Altwater does not disclose is the integration of the wrapping device into the baler. However, Springs teaches that it is old and well known in the art of bailing to provide a baler with a film wrapping device, for film F on roll 22, holding device 110 rope forming device, comprised of arms 140, actuators 152 and protrusions 152 and cutting means 99 (see Fig. 8, C9, L3-25 and C10, L37 – C11, L35). Furthermore, Viaud teaches that it is old and well known in the art to provide a pulling of device comprised of rollers 60 and 62 for the purpose of efficiently feeding film to a baler (see Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Altwater with the wrapping means of Springs and the feeding means of Viaud for the purpose of increasing wrapping efficiency.

#### ***Allowable Subject Matter***

7. Claims 3,9,13,23 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***



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8. Applicant's arguments, see page 12, filed 2/23/04, with respect to claims 3 and 23 have been fully considered and are persuasive. The rejection of the claims has been withdrawn.

9. Applicant's arguments filed 2/23/04, with respect to claims 1,2,4-8,10-12,14-22 and 24-26 have been fully considered but they are not persuasive.

In respect to claims 4 and 10-12, the claims were rejected in view of Official Notice. Since the applicant has not seasonably traversed the Examiner's position of Official Notice, it is taken that the common knowledge subject matter is taken to be admitted prior art. [See MPEP §2144.03 (c)]

In regard to claim 1,2,5-8,14,16,18-20,24 and 25, Applicant argues that there is no reason to combine the references of Springs and Viaud since the teaching of Viaud does not teach of the use of adhesive film to wrap an object, the support if a film roll on a plurality of rolls, and combining the rope forming mechanism with the pull device. While, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the position of Official Notice was taken regarding the use of the type of wrapping material. Since applicant has not seasonably traversed this position as described above, it is taken as an admission in prior art. Furthermore, the examiner contends that the use of an adhesive type

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wrapping material is not critical to the teaching of Viaud, in that the teaching of Viaud is relied on for the use of it's film pull means. Still furthermore, It is not a requirement that the teaching for a primary reference recite some or all of the features common to both the primary reference and the teaching. In this instance, the primary reference of Springs is relied on for the use of a rope forming mechanism and the roll support.

In regards to claims 17,21,22 and 26, the applicant has not suggested how the respective teachings of Ingram, Casteel or Altwater are not able to be combined with the reference of Springs and teaching of Viaud other than for the arguments detailed above.

Therefore, for the reasons indicated above, the rejection is deemed proper.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand  
June 14, 2004



SCOTT A. SMITH  
PRIMARY EXAMINER